

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO DIVISION**

IN RE OPTICAL DISK DRIVE PRODUCTS  
ANTITRUST

Case No. 3:10-md-2143 RS (JCS)

**DECLARATION OF CHRIS  
WHIPPS RE DISTRIBUTION**

This Document Relates to:  
ALL INDIRECT PURCHASER ACTIONS

1 I, Chris Whipps, declare as follows:

2 1. I am employed as CEO of Sipree, Inc., d/b/a DigitalPay, which serves as one of the  
3 Court-appointed Administrators of the Settlements. As the CEO of DigitalPay, I oversee the  
4 administrative and executive services provided in this matter. I make this declaration to further  
5 outline those administrative services. I have personal knowledge of the facts set forth herein and, if  
6 called as a witness, could and would testify competently thereto.

7 2. As stated in my March 7, 2022, declaration, the total number of timely and valid  
8 claims received at [www.dollarsfordiskdrives.com](http://www.dollarsfordiskdrives.com), via email to [info@dollarsfordiskdrives.com](mailto:info@dollarsfordiskdrives.com), and  
9 via U.S. Mail was 465,012.

10 3. From May 6, 2022, to June 4, 2022, DigitalPay sent “Warm Up” emails to notify  
11 claimants of their upcoming payment. 46,176 emails were “hard bounced” back to DigitalPay during  
12 the transmission of the Warm Up email, which reduced the final number of deliverable payments.  
13 Hard bounces are controlled by third party Internet Service Providers or Email Service Providers and  
14 result from the following circumstances:

- 15 • Invalid account (cannot be found);
- 16 • Account no longer in use;
- 17 • Account flagged for fraud;
- 18 • “Temporary” accounts—email accounts opened  
19 for one transaction and never used again;
- 20 • User unsubscribes / opts out; or
- 21 • Other—no reason provided.

22 4. As stated in my March 7, 2022, declaration, from June 6, 2022, to June 17, 2022,  
23 DigitalPay sent 454,059 Payment Notifications. Beginning on June 9, 2022, Epiq Class Action  
24 Claims and Solutions (Epiq) sent 8,874 paper checks and wire transfers to claimants who had  
25 requested those forms of distribution. Since that date Epiq has sent an additional 2,023 paper checks  
26 and wire transfers to claimants who had provided updated payment information.

<b>Total Valid Claims</b>	<b>465,012</b>
Reduced from blank claimant data	56
Accepted digital payments	238,677
"Hard Bounced" emails suppressions	46,176
Non-responders / unclaimed payments	169,206
Checks & wires from initial distribution	8,876
Digital payments converted to check per request	2,021
<b>Total Valid Claims</b>	<b>465,012</b>

5. As set forth below, the total amount from the initial settlement funds is \$204,999,138.10. After accounting for accumulated interest and approved payments from the settlement funds, the net distributable settlement amount is now **\$167,197,144.48**. Per my March 7, 2022, declaration, the expiration date for all digital payments was July 22<sup>nd</sup>, 2022. This expiration date was adjusted to August 14<sup>th</sup>, 2022, due to a delay from an objector which postponed the Phase I distribution to commence on June 6<sup>th</sup>, 2022. A final reminder notice was sent to claimants regarding the Phase I distribution on August 6<sup>th</sup>, 2022, ensuring that all claimants who had not yet accepted payment had notice that they had a last opportunity to do so. As of August 14<sup>th</sup>, 2022, \$19,177,476.35 was claimed digitally and \$123,874,769.22 was claimed via checks and wire transfers.

6. Adjustments to the remaining balance have been made to account for late accepted payments, additional administration costs that will be incurred and returned Attorney's fees. After adjustments **\$33,462,993.86** remains for the Phase II second round distribution to class members who responded in the Phase I distribution.

<b>Total funds available (settlements plus interest)</b>	<b>\$</b>	<b>207,071,998.09</b>
Taxes Paid from the Funds	\$	(430,265.69)
Attorneys' Fees	\$	(31,026,000.00)
Service Awards (\$6,000 x 25 class reps)	\$	(150,000.00)
Administration Costs (including those expected to be incurred)	\$	(4,856,401.30)
<b>Current balance</b>	<b>\$</b>	<b>170,609,331.10</b>
2% reserve	\$	(3,412,186.62)
<b>Net settlement fund</b>	<b>\$</b>	<b>167,197,144.48</b>

<b>Initial Settlement Funds</b>	<b>\$</b>	<b>167,197,144.48</b>
Digital Payments	\$	(19,177,476.35)
Checks & Wire Payments	\$	(123,874,769.22)
HBSS Return Fees	\$	4,380,000.00
Objector Payment	\$	(630,500.00)
Remaining Reserves*	\$	5,020,943.34
Returned funds from Withdrawn Claims	\$	337,966.28
NEW Returned funds from Withdrawn Claims**	\$	267,685.33
NEW Administration Costs***	\$	(58,000.00)
<b>Net Settlement Funds for 2nd Distribution</b>	<b>\$</b>	<b>33,462,993.86</b>

\*Reserve amount was reduced from \$5,194,401.70 to \$5,020,943.34 to pay remaining Administration invoice to Epiq in the amount of \$173,458.36. This invoice is not new and was included in the Administration Costs line item in the initial distribution plan filed on April 7, 2022.

\*\*Additional withdrawn claims received from third-party filers due to duplicate claims submitted. These funds were returned after previous declarations was submitted on September 2, 2022.

\*\*\* New Administration expenses expected due to the extended time caused by objection filed on September 13, 2022.

7. The Phase II second round distribution amount has now been set at 1) a flat \$5 base payout, combined with 2) a pro-rata payout of approximately **\$0.86 per hard drive** for each of the **249,507** class members who accepted their payment in the Phase I distribution.

<b>Example of Pro-Rata Calculation</b>	<b>Base Payment</b>	<b>Number of Drives</b>	<b>Total Payment</b>
Minimum Phase II Payment	\$5.00	1	\$5.86

8. DigitalPay expects to begin the Phase II second round of distribution on October 21<sup>st</sup>, 2022 and will finish delivering payments on or before November 4<sup>th</sup>, 2022. Epiq will send checks and wire payments to applicable class members beginning on October 21<sup>st</sup>, 2022.

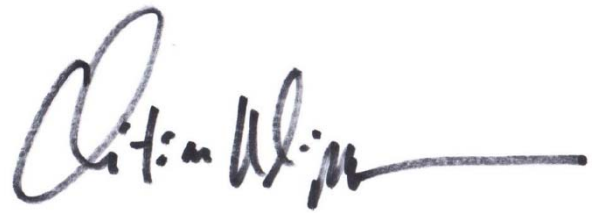
9. On January 6<sup>th</sup>, 2023 DigitalPay and Epiq can provide an estimate of the potential remaining funds after the Phase II distribution. The majority of payments in Phase II will be delivered via digital payment and wire transfers which do not require claimants to take action, the only variable that would affect the remaining balance is the take rates for physical checks. Epiq and DigitalPay will make a concerted effort to reach out to claimants who receive a physical check and remind them to cash it. Below is a range of potential remaining funds.

<b>Estimated Range of Remaining Funds After Phase II Distribution</b>		
Assumes 0% of checks are cashed	\$	2,909,369.67
Assumes 100% of checks are cashed. The remaining balance is a result of Phase II payment rounding down to the penny.	\$	371.18

10. DigitalPay will submit another post-distribution report on January 6<sup>th</sup>, 2023 that will confirm (i) the final amount remaining after the second round of distribution; (ii) Class Counsel's distribution of that remaining amount to the Attorneys General for the Class jurisdictions for use in prosecuting consumer antitrust claims and (iii) that the settlement fund has been reduced to zero completing the distribution of the settlement funds for this case.

<p><b>Phase II: Second Round Distribution</b></p> <p>Claims administrator DigitalPay securely delivers a final pro rata payment to all payees who took a payment in the Initial Payment Offering (Phase I). These virtual cards are the named property of the payee and deliver live funds. No bank account is required to activate and use any of the cards delivered. This final phase delivers funds to all entitled claimants with the intent of taking the settlement balance as closed to \$0 as possible (except for outstanding physical checks issued by Epiq).</p> <p>Claims administrator Epiq to reissue checks and wire transfers with 60-day expiration to those who cashed or received their payment from Phase I distribution.</p>	<p>October 21 – November 4, 2022</p>
<p><b>Final Reporting</b></p> <p>Claims administrator DigitalPay to provide final report regarding the disbursement of the settlement funds.</p> <p>Any remaining funds will be distributed to the Attorneys General for the Class jurisdictions for use in prosecuting consumer antitrust claims.</p>	<p>January 6, 2023</p> <p>January 13, 2023</p>

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 7th day of October 2022, in San Francisco, California.



CHRIS WHIPPS